

Remarks

Claims 1-58 are currently pending in the application. Claims 48-58 are withdrawn from consideration at this time. Claims 1-47 currently stand rejected. Claims 1 and 36 have been amended. All other pending claims remain unchanged. Applicant respectfully submits that no new matter is added by the present amendment of the claims.

Applicant thanks the Examiner for granting a telephonic interview on October 6, 2008. Differences between the instant application and references cited in the Office Action were discussed and progress was made. Each of the rejections levied in the Office Action is address individually below.

1. **Rejection under 35 U.S.C. § 112, first paragraph.** Claims 1-3, 5-7, 9-30, and 32-47 stand rejected under 35 U.S.C. § 112, first paragraph, because the specification, “while being enabling for a multi-antigenic construct comprising carbohydrate domains, or elongated versions thereof that are present on tumor cells, does not reasonably provide enablement for a multi-antigenic construct comprising truncated versions of carbohydrate domains that are present on tumor cells.” Solely order to further prosecution Applicant has amended claims 1 and 36 to delete the word “truncated.” Applicant respectfully submits that the rejection is now moot.

2. **Rejections under 35 U.S.C. § 102(e).** Claims 1-44, 46, and 47 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,160,856 (the ‘856 patent). The Examiner states that the ‘856 patent discloses “R^d, R^e, and R^f carbohydrate domains [that] are independently selected, and therefore encompass non-identical carbohydrate domains.” Applicant respectfully disagrees with the assertion that the ‘856 patent is anticipatory. In the telephonic interview on October 6, 2008, Applicant explained to the Examiner that the instant claims are drawn to “clusters of clusters” of antigenic epitopes displayed on a peptide backbone. Such constructs have a t' bracket moiety comprising a spacer and a cluster of one or more amino acids substituted with a carbohydrate antigen, linked to at least one other such cluster-spacer moiety. That is, t' is at least 2. The ‘856 patent does not disclose the concept of “clusters of clusters,” and therefore does not anticipate the claimed invention of the present application. Applicant respectfully

submits that the instant claims are patentably distinct over the '856 patent and requests that the rejection be removed.

3. Double Patenting. Claims 1-44, 46, and 47 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-47 of the '856 patent. Applicant reiterates the arguments stated above with regard to the '856 patent. Neither the specification nor the claims of the '856 patent teach or suggest the instantly claimed constructs comprising a t' bracket moiety with a spacer and a cluster of one or more amino acids substituted with a carbohydrate antigen, linked to at least one other such cluster-spacer moiety. Applicant respectfully submits that the instant claims are patentably distinct over claims 1-47 of the '856 patent, and requests that the obviousness-type double patenting rejection be removed.

Claims 1, 3-6, 9-35, and 37-47 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 56, 58-62, 65-67, 69-76, 78-81, 84-86, and 88-98 of copending U.S. Patent Application No. 09/641,742 (the '742 application). In view of the provisional nature of this rejection, Applicant wishes to hold this rejection in abeyance to be addressed when claims of the '742 application are allowed.

Claims 1, 3-7, 9-22, 24, 31-33, 35, 37, 39, 40, and 43-47 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 118-129, 132-137, 138-146, and 148-168 of copending U.S. Patent Application No. 10/209,618 (the '618 application). In view of the provisional nature of this rejection, Applicant wishes to hold this rejection in abeyance to be addressed when claims of the '618 application are allowed.

4. Miscellaneous Amendments

In the Response to the last Office Action, Applicant amended the claims to remove the word "furanose." Claim 1 is currently amended to strike an instance of "furanose" that was inadvertently not removed in the last Response.

In view of the foregoing amendments and arguments, Applicant respectfully submits that the present case is now in condition for allowance. A Notice to that effect is requested.

Please charge any fees that may be required for the processing of this Response, or credit any overpayments, to our Deposit Account No. 03-1721.

Respectfully submitted,

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